

REMARKS / ARGUMENTS

Claim 17 has been amended to correct a typographical error.

The rejection of the pending claims is respectfully traversed and the specific reasons why the references are not adequate under 35 USC 103 (a) are set forth below. However, if for no other reason, the references relied upon do not deal with *Ceratomia catalpae* larvae, a fishing bait long prized by fishermen, but known to all who have attempted to use this bait to exhibit certain peculiar characteristics when used as a live bait and to have previously resisted attempts to preserve this seasonal bait. All of the claims are limited to the preservation of *Ceratomia catalpae* larvae, a notoriously fickle fishing bait.

Claim 1 of the instant application includes the step of "introducing the batch of live *Ceratomia catalpae* larvae into heated water to blanch the batch of *Ceratomia catalpae* larvae for a period longer than the time required to kill the *Ceratomia catalpae* larvae". Claim 1 thus explicitly states that the larvae are killed by blanching.

Horton appears to rely upon a freeze drying step to kill "red wiggler" worms. Apparently the worms must still be alive just prior to being placed in pre-cooled trays and then freeze dried. Col. 3, lines 33-58 and Col. 4, lines 42-46. The live action of the live red wiggler worms appears to be an important part in the removal of bedding material from the worms. Furthermore, Horton states that the pre-cooling step is intended to reduce physical activity, so the worms are alive prior to freezing. Col 2, lines 47-48.

Although Kawamura does suggest that blanching can be a useful initial step in a method of preparing a dehydrated food product, the blanching step is not required. Col 1, lines 64-65. There would appear to be nothing in Kawamura to indicate that blanching should be used as a method of killing a live larvae as a first step in freezing that larvae for later use. Indeed, Kawamura appears to be largely concerned with processing vegetables. Although the Kawamura process can be used with a number of animal products, it is clear that blanching could not be employed as a means of killing these animal or meat products. Even in the few instances, such as shrimp, in which blanching might conceivably be used to kill the animal, there appears to be no suggestion of such a step. Even for shrimp, it would appear that the heads, tails and shells would be removed prior to blanching.

Kawamura expressly states that meat including shrimp, clams and oysters are to be processed after dressing. Col. 4, lines 47-49. Also Kawamura specifically states, "Generally speaking, blanching treatments are not as such applicable to meats, and thus if meats are to be processed, the blanching treatment would normally be omitted." Col 5, lines 38-41. Thus Kawamura would appear to contradict the asserted rejection and invention as a whole, and Kawamura when combined with Horton would not have suggested the process of blanching a live animal or larvae as a means of killing that animal or larvae prior to freezing to preserve the animal or larvae.

The use of the blanching step to kill the *Ceratomia catalpae* larvae is not merely a question of inverting the steps of the prior art. The *Ceratomia catalpae* larvae exhibit special characteristics, which have made it difficult to preserve this type of fishing bait by conventional means. Although there have been attempts to freeze *Ceratomia catalpae* larvae in the past, the result of freezing is a frozen product that has yellowed, even when frozen in solid water or frozen with sugar or syrups or cornmeal. The *Ceratomia catalpae* larvae, or Catalpa worms or Catawba worms as they are commonly know, have a tendency to spit or regurgitate their stomach or intestines or their internal contents if disturbed. It is believed that this material plays an important part in attracting fish and making this bait highly prized. If the worms are bagged and frozen, they will have a tendency to spit on each other, making a mess in the bag, losing their appeal to fishermen, if not to fish. By using the blanching step to quickly kill the larvae before they have the opportunity to react by regurgitating their stomach or intestine or internal component, a far superior product to prior art frozen *Ceratomia catalpae* larvae baits results.

The relevance of Aung et al is not understood. One of ordinary skill in the art would not understand that a process for treating herbs would provide improved performance for a processed fishing bait, specifically *Ceratomia catalpae* larvae. Aung et al. does not teach that blanching promotes the retention of color or aroma. Instead, Aung et al teaches that the loss of flavor and color can be reduced by adding an osmotic agent, such a high fructose corn syrup, glucose, sucrose or other mixtures, during the blanching step. See Col. 9, line 57 – Col. 10, line 42. One of ordinary skill in the art would be concerned that the addition of such agents, which result in a glass-like film,

would interfere with the natural effectiveness of the larvae fishing bait. Applicant has discovered that the use of a blanching step to kill the larvae will help preserve the color and aroma of the *Ceratomia catalpae* larvae, because the larvae are rapidly killed, eliminating the time for the larvae to adversely react to the process.

Applicant's position with respect to Claim 1 is also applicable to Claim 17, which recites the step of "introducing live larvae to a blanch bath of rolling/boiling water for approximately 10-15 seconds to reduce any microbiological activity present on the worms, brighten the color of the worms, and slightly toughen the outer skin of the larvae and to kill the larvae".

Claim 18 is believed to be allowable over the art or record because it recites a product that neither adds significant moisture or preservatives to the final product. Other prior art techniques for preserving *Ceratomia catalpae* larvae suffer because the final product exhibits these undesirable characteristics.

The pending claims are believed to be allowable over the art of record, and the application is now believed to be in condition for allowance. Issuance of a Notice of Allowance is therefore courteously solicited.

Respectfully Submitted:



Robert W. Pitts
Registration No. 27372
Attorney for Applicants
Phone: 336-760-9565